

Members

Sen. Jeff Drozda, Chairperson  
Sen. Greg Walker  
Sen. John Broden  
Sen. Timothy Lanane  
Rep. David Niezgodski  
Rep. Nancy Dembowski  
Rep. Phil Hinkle  
Rep. Milo Smith  
Chuck Williams  
Andy Cook  
Barbara Krisher  
C. Pete Peterson  
Patti O'Callaghan  
Mark Catanzarite  
Ken Buck  
Tom Bodkin



## ANNEXATION STUDY COMMITTEE

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Chris Baker, Fiscal Analyst for the Committee

Authority: P.L. 224-2007 (HEA 1478-2007)

### MEETING MINUTES<sup>1</sup>

**Meeting Date:** August 22, 2007  
**Meeting Time:** 10:00 A.M.  
**Meeting Place:** State House, 200 W. Washington St., Room 233  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 1

**Members Present:** Sen. Jeff Drozda, Chairperson; Sen. Greg Walker; Sen. Timothy Lanane; Rep. Nancy Dembowski; Rep. Milo Smith; Andy Cook; Barbara Krisher; Patti O'Callaghan; Mark Catanzarite; Ken Buck; Tom Bodkin.

**Members Absent:** Sen. John Broden; Rep. David Niezgodski; Rep. Phil Hinkle; Chuck Williams; C. Pete Peterson.

1. Call to Order.

Senator Drozda called the meeting to order at 10:04 a.m.

2. Introduction of members.

Committee members introduced themselves to the audience and discussed their

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

appointment to the Committee.

### 3. Committee Charges.

Anne Haley, the LSA staff attorney, read the Committee charges:

"The committee shall study:

- (1) revising the statutes concerning municipal annexation of territory. The committee's study may not include the annexation statutes in IC 36-3-2; and
- (2) whether "one and fifteen hundredths (1.15)" in STEP THREE of IC 6-1.1-18.5-3(a) and STEP THREE of IC 6-1.1-18.5-3(b) is sufficient to raise adequate property taxes for a municipality annexing territory." (P.L. 224-2007 (HEA 1478-2007))

"Various annexation issues, including impact of allowing municipal annexation of whole or partial parcels of land, certain agreements between landowners and heirs concerning authority to remonstrate, establishment of boundaries for annexations, county court jurisdiction to decide whether territory is needed, extension of services to annexed territories, and process for approval of annexation." (Legislative Council Resolution 07-01)

### 4. Testimony and Committee Discussion.

Senator Drozda said that the purpose of the meeting would be to learn what issues the public would like the Committee to address. The written testimony of Zionsville Fire Department Chief James Vangorder, regarding annexation and fire protection territories and Diane Balogh, regarding an annexation by Whitestown (Exhibits #1 and #2) were distributed. Rob Schein and Andy Buroker, Krieg Devault L.L.C, testified that they represented some of the remonstrators in the litigation that resulted in the Indiana Supreme Court decision, *City of Carmel v. Southwest Clay Township Annexation Territory Landowners*. Discussing the case, Mr. Schein and Mr. Buroker explained that after landowners filed a remonstrance, a percentage of the landowners voted to approve a settlement agreement with Carmel. As a result of the agreement, the city amended its fiscal plan. The court found that a city could amend its fiscal plan after a remonstrance is filed. The court also found that if a sufficient number of landowners approve a settlement agreement, the remonstrators will be unable to defeat an annexation ordinance under IC 36-4-3-13(e)(2)(D)(i), because they failed to maintain the support of 65% of the landowners in the territory as required by the statute. In responding to Committee members, Mr. Schein and Mr. Buroker proposed clarifying the annexation statutes with regard to amending the fiscal plan, suggesting that the law should prohibit amending the fiscal plan after the publication of the annexation ordinance. They also proposed a clarification in the law regarding what is required for a settlement agreement, suggesting that the number of landowners required to approve an agreement should be specified.

Dave Bottorff, Association of Indiana Counties, addressed the problems that counties face when municipalities annex territory, including a reduction in the amount of income tax that counties receive. Mr. Bottorff suggested that an arbitration panel be involved in the annexation to ensure that the money lost by units due to an annexation is proportionate to the services lost by the units that are to be performed by the municipality. Mr. Bottorff's comments are attached. (Exhibit #3). In response to questions from the Committee, Mr. Bottorff also discussed the issue landowners signing waivers of their right to remonstrate in return for extension of sewer or other services.

Mayor Jonathan Weinzapfel, Evansville, summarized the city's perspective of

annexation policy:

- Annexation provides land for the city's economic development.
- The city can provide quality services and programs to the annexed areas.
- Annexation lowers city property taxes.
- The city border should shift with a change in demographics.
- Cities and towns are the generators of economic development. Increasing a city's population results in an increase in development and prestige for the city which benefits the annexed properties.

As part of the Committee discussion, Committee member Barbara Krisher suggested that the Committee look at the issue of stormwater fees. Matt Brase, Indiana Association of Cities and Towns, said that the Environmental Quality Service Council is examining this issue during the interim. Jack Holton, Southwest Clay Community Association, explained that he was a remonstrator in the annexation involving the City of Carmel and Southwest Township. Mr. Holton discussed the frustrations he experienced in the process of the annexation, including how time-consuming the remonstrance process was and how difficult it was to learn what was going on. Mr. Holton said that the 1999 amendments to the annexation law created a more level playing field in annexations, making annexation easier for municipalities that extend services to an area and requiring a supermajority of landowners to combat an annexation.

Lisa Blosser, Allen County Auditor, discussed the financial impact that the annexation of Aboite Township by Fort Wayne had on Allen County. She distributed a chart showing the effect the annexation had on the county's revenue (Exhibit #4). Ms. Blosser said that while the annexation results in a reduction of county revenue, it does not significantly reduce the county's duties and responsibilities.

Mike Shaver, Wabash Valley Scientific, Inc., discussed the annexation of Southwest Township by the City of Carmel, explaining that his property was annexed by Carmel. He expressed that the results of the annexation were positive and that the landowners' purpose in remonstrating and entering into the settlement agreement was to obtain better financial terms from Carmel. He urged the Committee to address the following issues:

- The allocation of COIT, EDIT, CAGIT taxes after an annexation.
- Duplication of services after an annexation, such as county road patrols on roads that are annexed into the municipality.
- Allocating money for planning services for the annexed territory
- Removing the statutory requirement that a town obtain the consent of a city before annexing territory.
- Change the contiguity requirement. Allow subdivisions that are not contiguous to be annexed before properties in the subdivision are sold.

Tanya Galbraith, Town Manager of McCordsville, urged the Committee to look at voluntary annexations because these are the most common and they are mostly developer driven. She said that the time lines for voluntary annexations are too long. Senator Drozda summarized the following issues for the Committee to study, based upon the witness testimony:

- Restrictive covenants prohibiting annexation and remonstrance waivers.
- Whether requiring 65% of the landowners to support a remonstrance is a fair requirement or whether the requirement should be lowered.
- Amending the fiscal plan.
- Review of the fiscal plan by the Department of Local Government Finance or some

- other body.  
Property taxes.

Senator Drozda suggested that the Committee discuss two issues per meeting.

5. Set next meeting date.

Sen. Drozda discussed possible dates for the next meeting and said that a notice would be sent out soon.

6. Adjournment.

Sen. Drozda adjourned the meeting at 12:15 p.m.